

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Case No. 3:23-cr-12
	:	
v.	:	
	:	Judge Thomas M. Rose
DUSTIN JOHNSON,	:	
	:	
Defendant.	:	

**ENTRY AND ORDER DENYING DEFENDANT’S ORAL MOTION TO
RECEIVE CREDIT FOR TIME SERVED ON STATE CHARGES**

The instant criminal matter is before the Court on Defendant Dustin Johnson’s (“Johnson”) oral motion to receive credit toward his federal sentence for time served on state law charges. (*See* 07/08/2024 Minute Entry.) On July 2, 2024, the Court sentenced Johnson to a term of imprisonment of 264 months on one count of production of child pornography, in violation of 18 U.S.C. § 2251(a). (Doc. No. 42.) Meanwhile, Johnson was in State custody on charges related to his attempted sexual conduct with a minor.¹ Federal sentencing courts are sometimes obligated under the Sentencing Guidelines to allow defendants credit for time served in state custody for related conduct. U.S.S.G. § 5G1.3(b). However, courts will not provide such credit for time served where the “conduct that led to [defendant’s] state sentence was not the basis for an increase in his offense level [under the Sentencing Guidelines].” *U.S. v. Brown*, 417 Fed. App’x. 488, 493-94 (6th Cir. 2011) (relying on *United States v. Merrill*, 332 Fed. App’x. 791, 793 (3rd Cir. 2009));

¹ FRANKLIN COUNTY COURT OF COMMON PLEAS CRIMINAL CASE DETAIL, <https://fcdcfcs.co.franklin.oh.us/CaseInformationOnline/caseSearch?g32XFanHUElh3T5dlnyw> (last visited Jul. 19, 2024).

see also U.S.S.G. 5G1.3, Application Note 2. At sentencing in this case, the Court did not factor in Johnson's state law charges when computing his offense level under the United States Sentencing Guidelines. Indeed, Johnson's state law charges and federal charges reflect separate crimes with separate victims and he should be held to account for both separately. Therefore, the Court **DENIES** Johnson's oral motion for time credit toward his federal sentence.

DONE and **ORDERED** in Dayton, Ohio, this Monday, July 22, 2024.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE